

SENATE BILL 763

R3
SB 454/06 – JPR

71r2529

By: **Senators Hooper, Colburn, Greenip, Hogan, Jacobs, and Kittleman**
Introduced and read first time: February 12, 2007
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Drugged Driving – Test – Police Officers**

3 FOR the purpose of repealing a requirement that a certain test for drug or controlled
4 dangerous substance content may only be requested, required, or directed by a
5 police officer who has been or is being trained as a drug recognition expert or is
6 participating in a certain training program; providing for the application of this
7 Act; and generally relating to altering the qualification of a police officer who
8 may request, require, or direct a certain test for drugged driving under certain
9 circumstances.

10 BY repealing and reenacting, without amendments,
11 Article – Transportation
12 Section 16–205.1(a)(1)(i) and (iv)
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2006 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Transportation
17 Section 16–205.1(i)
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2006 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Transportation**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 16-205.1.

2 (a) (1) (i) In this section the following words have the meanings
3 indicated.

4 (iv) "Test" means, unless the context requires otherwise:

5 1. A test of a person's breath or of 1 specimen of a
6 person's blood to determine alcohol concentration;

7 2. A test or tests of 1 specimen of a person's blood to
8 determine the drug or controlled dangerous substance content of the person's blood; or

9 3. Both:

10 A. A test of a person's breath or a test of 1 specimen of a
11 person's blood, to determine alcohol concentration; and

12 B. A test or tests of 1 specimen of a person's blood to
13 determine the drug or controlled dangerous substance content of the person's blood.

14 (i) Notwithstanding any other provision of this section, a test for drug or
15 controlled dangerous substance content under this section[:

16 (1) May] **MAY** not be requested as described under subsection (b) of
17 this section, required as described under subsection (c) of this section, or directed as
18 described under subsection (d) of this section, by a police officer unless the law
19 enforcement agency of which the officer is a member has the capacity to have such
20 tests conducted[;

21 (2) May only be requested as described under subsection (b) of this
22 section, required as described under subsection (c) of this section, or directed as
23 described under subsection (d) of this section, by a police officer who is a trainee, has
24 been trained, or is participating directly or indirectly in a program of training that is:

25 (i) Designed to train and certify police officers as drug
26 recognition experts; and

27 (ii) Conducted by a law enforcement agency of the State, or any
28 county, municipal, or other law enforcement agency in the State described in items
29 (3)(i)1 through 12 of this subsection:

1 1. In conjunction with the National Highway Traffic
2 Safety Administration; or

3 2. As a program of training of police officers as drug
4 recognition experts that contains requirements for successful completion of the
5 training program that are the substantial equivalent of the requirements of the Drug
6 Recognition Training Program developed by the National Highway Traffic Safety
7 Administration; and

8 (3) May only be requested as described under subsection (b) of this
9 section, required as described under subsection (c) of this section, or directed as
10 described under subsection (d) of this section:

11 (i) In the case of a police officer who is a trainee, or who is
12 participating directly or indirectly in a program of training described in paragraph (2)
13 of this subsection, if the police officer is a member of, and is designated as a trainee or
14 a participant by the head of:

15 1. The Department of State Police;

16 2. The Baltimore City Police Department;

17 3. A police department, bureau, or force of a county;

18 4. A police department, bureau, or force of an
19 incorporated city or town;

20 5. The Maryland Transit Administration Police Force;

21 6. The Maryland Port Administration Police Force of the
22 Department of Transportation;

23 7. The Maryland Transportation Authority Police Force;

24 8. The Police Force of the University of Maryland or
25 Morgan State University;

26 9. The police force for a State university or college under
27 the direction and control of the University System of Maryland;

28 10. A sheriff's department of any county or Baltimore
29 City;

1 11. The Natural Resources Police Force or the Forest and
2 Park Service Police Force of the Department of Natural Resources; or

3 12. The security force of the Department of General
4 Services; or

5 (ii) In the case of a police officer who has been trained as a drug
6 recognition expert, if the police officer is a member of, and certified as a drug
7 recognition expert by the head of one of the law enforcement agencies described in
8 items (3)(i)1 through 12 of this subsection].

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
10 construed to apply only prospectively and may not be applied or interpreted to have
11 any effect on or application to any test for drug or controlled dangerous substance
12 content requested, required, or directed before the effective date of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2007.